

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

SLUSH PUPPIE LIMITED,

Plaintiff/Counterclaim Defendant,

v.

THE ICEE COMPANY,

Defendant/Counterclaim Plaintiff.

Case No. 1:19-cv-00189-MRB

Judge Michael R. Barrett

**ORDER GRANTING PLAINTIFF’S AND DEFENDANT’S RESPECTIVE MOTIONS  
TO AMEND AND DENYING PLAINTIFF’S MOTION FOR A PROTECTIVE ORDER**

Following the motion hearing held on February 6, 2023, and after consideration of Plaintiff’s Motion for Leave to File a Second Amended Complaint to Withdraw Certain Causes of Action (Doc. 72); Defendant’s Motion to Amend Its Counterclaims (Doc. 152); and Plaintiff’s Motion for Protective Order Regarding the Slushy Jack’s Brand (Doc. 158), along with all briefing and exhibits submitted in connection therewith, and consistent with the undersigned’s ruling from the bench:

1. Plaintiff’s Motion for Leave to File a Second Amended Complaint to Withdraw Certain Causes of Action (Doc. 72) is hereby **GRANTED**. Within **two** business days of this Order, Plaintiff shall file the Second Amended Complaint attached to its Motion for Leave (*see* Doc. 72 PAGEID 1186–1211) as a stand-alone pleading, edited throughout to reflect the Court’s March 16, 2023 Opinion & Order (Doc. 189) Granting The ICEE Company’s Motion for Summary Judgment on Slush Puppie Limited’s Twelfth Claim for Relief in its Amended and Supplemental Complaint. Pursuant to Fed. R. Civ. P. 15(a)(3), Defendant shall respond to Plaintiff’s Second Amended Complaint within 14 days.

2. Defendant's Motion to Amend Its Counterclaims (Doc. 152) is hereby **GRANTED**.<sup>1</sup> Defendant's Amended Counterclaims shall be pled within Defendant's response to Plaintiff's Second Amended Complaint. Pursuant to Fed. R. Civ. P. 15(a)(3), Plaintiff shall respond to Defendant's Amended Counterclaims within 14 days.

3. Plaintiff's Motion for a Protective Order Regarding the Slushy Jack's Brand (Doc. 158) is hereby **DENIED**.

**IT IS SO ORDERED.**

/s/ Michael R. Barrett  
JUDGE MICHAEL R. BARRETT

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<sup>1</sup> The Court's Order granting Plaintiff's Motion for Leave (Doc. 72) arguably moots Defendant's Motion to Amend Its Counterclaims (Doc. 152). Nonetheless, out of an abundance of caution and to be consistent with the undersigned's ruling from the bench, the Court issues this express Order.